

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

Poweroasis, Inc., et al.

v.

Case No. 05-cv-42-PB

T. Mobil USA, Inc.

O R D E R

T-Mobile USA, Inc. has not substantially justified its failure to abide by the July 15, 2005 expert disclosure deadline. Nevertheless, I can address any harm resulting from its late disclosure of the expert information by: (1) requiring T Mobile to reimburse Poweroasis, Inc. for its costs and fees in preparing the Motion to Strike and any other filings that will have to be amended to address the expert's anticipated testimony; and (2) allowing Poweroasis 30 days from the date of this Order to depose the expert and make any required amendments to its existing filings. Striking the expert's declaration under these circumstances would be unjust, especially because there is no evidence to suggest that T-Mobile willfully violated the Pretrial

Order. Accordingly, I deny the Motion to Strike (Doc. No. 35) and instead award Poweroasis the relief described in this Order.

SO ORDERED.

/s/Paul Barbadoro  
Paul Barbadoro  
United States District Judge

October 24, 2005

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